

2013 DRAFTING REQUEST

Bill

Received: 7/9/2013 Received By: agary
 Wanted: As time permits Same as LRB:
 For: Eric Genrich (608) 266-0616 By/Representing: Steven Peters
 May Contact: Drafter: agary
 Subject: Transportation - traffic laws Addl. Drafters: mduchek
 Extra Copies: EVM

Submit via email: YES
 Requester's email: Rep.Genrich@legis.wisconsin.gov
 Carbon copy (CC) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Prohibit smoking in vehicles while children are present; surcharge funding smoking cessation program

Instructions:

See attached

Jacket sent to
 Rep. Barnes per
 requester

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/P1	agary 8/28/2013	evinz 7/23/2013	jfrantze 7/24/2013	_____	srose 7/24/2013		State S&L
/1		evinz 8/28/2013	jfrantze 8/28/2013	_____	sbasford 8/28/2013	srose 2/12/2014	State S&L

FE Sent For:

→ At
Intro.

<END>

2013 DRAFTING REQUEST

Bill

Received:	7/9/2013	Received By:	agary
Wanted:	As time permits	Same as LRB:	
For:	Eric Genrich (608) 266-0616	By/Representing:	Steven Peters
May Contact:		Drafter:	agary
Subject:	Transportation - traffic laws	Addl. Drafters:	mduchek
		Extra Copies:	EVM

Submit via email: **YES**
 Requester's email: **Rep.Genrich@legis.wisconsin.gov**
 Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Prohibit smoking in vehicles while children are present; surcharge funding smoking cessation program

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	agary 8/28/2013	evinz 7/23/2013	jfrantze 7/24/2013	_____	srose 7/24/2013		State S&L
/1		evinz 8/28/2013	jfrantze 8/28/2013	_____	sbasford 8/28/2013		State S&L

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received:	7/9/2013	Received By:	agary
Wanted:	As time permits	Same as LRB:	
For:	Eric Genrich (608) 266-0616	By/Representing:	Steven Peters
May Contact:		Drafter:	agary
Subject:	Transportation - traffic laws	Addl. Drafters:	mduchek
		Extra Copies:	EVM

Submit via email: **YES**
 Requester's email: **Rep.Genrich@legis.wisconsin.gov**
 Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Prohibit smoking in vehicles while children are present; surcharge funding smoking cessation program

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	mduchek 7/17/2013	evinz 7/23/2013	jfrantze 7/24/2013	_____	srose 7/24/2013		State S&L

FE Sent For: *11 eev*
8/28/13 *Jb* *8/28*

<END>

2013 DRAFTING REQUEST

Bill

Received:	7/9/2013	Received By:	agary
Wanted:	As time permits	Same as LRB:	
For:	Eric Genrich (608) 266-0616	By/Representing:	Steven Peters
May Contact:		Drafter:	agary
Subject:	Transportation - traffic laws	Addl. Drafters:	mduchek
		Extra Copies:	EVM

Submit via email: **YES**
 Requester's email: **Rep.Genrich@legis.wisconsin.gov**
 Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

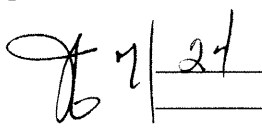
Topic:

Prohibit smoking in vehicles while children are present; surcharge funding smoking cessation program ✓

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	agary	pl eev 7/23/12		7/27			State S&L

FE Sent For:

<END>

Gary, Aaron

From: Peters, Steve
Sent: Tuesday, July 09, 2013 5:03 PM
To: Gary, Aaron
Subject: RE: Rep. Genrich Drafting Request

Aaron,

Can we do a \$25/\$25 forfeiture surcharge split with it doubled for subsequent offences?

Have DHS administer the program.

Steve

From: Gary, Aaron
Sent: Tuesday, July 09, 2013 4:23 PM
To: Peters, Steve
Subject: RE: Rep. Genrich Drafting Request

Hi Steve,

I have entered this request as LRB-2644 and I will be the drafter.

In Wisconsin, the state constitution prohibits us from using forfeiture amounts to fund specific programs. Art. X, sec. 2, of the Wisconsin Constitution generally requires the state's portion of forfeiture proceeds to be deposited in the school fund. To get around this constitutional restriction, we could create a surcharge imposed on the violation and designate the proceeds of the surcharge for smoking cessation program. The surcharge is in addition to the forfeiture for the violation. Do you want to create a surcharge? If so, how much should the surcharge be and how much should the forfeiture be? Also, which state agency do you want to administer this program that directs funds to smoking cessation programs?

Thanks. Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Peters, Steve
Sent: Monday, July 08, 2013 3:56 PM
To: Dodge, Tamara; Gary, Aaron
Subject: Rep. Genrich Drafting Request

Tamara and Aaron,

Rep Genrich is hoping to have a bill drafted which would place penalties on smoking in a vehicle while there are children under the age of 16 present. This would be a secondary enforcement measure. There would be a forfeiture attached of \$50 for the first offence and \$100 for every subsequent offence. This forfeiture would be split evenly between local law enforcement and a state recognized smoking cessation program.

There are already similar laws in Louisiana and Arkansas as well as Oregon
<http://www.leg.state.or.us/13reg/measures/sb0400.dir/sb0444.en.html>

Let me know if you have any questions and/or if I have not sent this to the right drafters!

Thanks,

Steven Peters
Office of Representative Eric Genrich
304W State Capitol
608-266-0617

77th OREGON LEGISLATIVE ASSEMBLY--2013 Regular Session

Enrolled

Senate Bill 444

Sponsored by Senator STEINER HAYWARD, Representatives THOMPSON, CLEM; Senators BOQUIST, BURDICK, DINGFELDER, MONNES ANDERSON, MONROE, ROSENBAUM, SHIELDS, Representatives GELSER, GREENLICK, KENY-GUYER, TOMEI (Presession filed.)

CHAPTER

AN ACT

Relating to smoking in a motor vehicle.

Be It Enacted by the People of the State of Oregon:

SECTION 1. { + Section 2 of this 2013 Act is added to and made a part of the Oregon Vehicle Code. + }

SECTION 2. { + (1)(a) A person commits the offense of smoking in a motor vehicle if the person smokes in a motor vehicle while a person under 18 years of age is in the motor vehicle.

(b) As used in this subsection, 'smokes' means to inhale, exhale, burn or carry a lighted cigarette, cigar, pipe, weed, plant, regulated narcotic or other combustible substance.

(2) Notwithstanding ORS 810.410, a police officer may enforce this section only if the police officer has already stopped and detained the driver operating the motor vehicle for a separate traffic violation or other offense.

(3) Smoking in a motor vehicle is a:

(a) Class D traffic violation for a first offense.

(b) Class C traffic violation for a second or subsequent offense. + }

Passed by Senate March 13, 2013

.....
Robert Taylor, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House June 3, 2013

.....
Tina Kotek, Speaker of House



State of Wisconsin
2013 - 2014 LEGISLATURE

in
7/16



LRB-2644/P1
ARG&MED:.....

Leev

D. Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAJ
xref 1

gen cat

- 1 AN ACT *gen cat*; relating to: smoking in motor vehicles while children are present,
- 2 making an appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits, with exceptions, a person from smoking in specified enclosed or outdoor locations, including in a "public conveyance," which is a mass transit vehicle, school bus, or other device by which persons are transported for hire except in interstate commerce. A person who violates this prohibition is subject to a forfeiture of not less than \$100 nor more than \$250 for each violation.

Also under current law, the Department of Health Services administers a tobacco use control program (program) to award grants for specified purposes, including to reduce tobacco use and promote tobacco use cessation and prevention.

This bill prohibits a person from smoking in a motor vehicle while a person under 16 years of age is present in the motor vehicle, regardless of whether the motor vehicle is on a highway. However, the bill does not apply to smoking in a public conveyance. A person who violates this prohibition must forfeit \$25 for the first offense and \$50 for each subsequent offense and must also pay a surcharge in the same amount. The surcharge proceeds provide additional funding for the program. A law enforcement officer may not stop or inspect a vehicle solely to determine compliance with this smoking prohibition but may issue a citation for a violation observed in the course of a stop or inspection made for other purposes.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.435 (1) (gc) of the statutes is created to read:

20.435 (1) (gc) *Tobacco use control, surcharge proceeds*. All moneys received from vehicle smoking surcharges under s. 346.947 for grants and programs under s. 255.15 (3).

SECTION 2. 255.15 (3) (b) (intro.) of the statutes is amended to read:

255.15 (3) (b) (intro.) From the appropriation ~~account~~ accounts under s. ss. 20.435 (1) (fm) and 20.435 (1) (gc), the department may award grants for any of the following:

History: 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25; 2009 a. 28; 2011 a. 32.

SECTION 3. 346.94 (23) of the statutes is created to read:

346.94 (23) SMOKING IN MOTOR VEHICLES WHILE CHILDREN ARE PRESENT. (a) In this subsection:

1. "Public conveyance" has the meaning given in s. 101.123 (1) (e).
2. "Smoke" means to burn or hold, or inhale or exhale smoke from, any item described in s. 101.123 (1) (h) 1. to 4. containing tobacco.

(b) No person may smoke in a motor vehicle while a person under 16 years of age is present in the motor vehicle, regardless of whether the motor vehicle is on a highway.

(c) This subsection does not apply if the motor vehicle is a public conveyance.

(d) Notwithstanding s. 349.02, a law enforcement officer may not stop or inspect a vehicle solely to determine compliance with this subsection or a local ordinance in conformity with this subsection. This paragraph does not limit the

1 authority of a law enforcement officer to issue a citation for a violation of this
2 subsection or a local ordinance in conformity with this subsection observed in the
3 course of a stop or inspection made for other purposes, except that a law enforcement
4 officer may not take a person into physical custody solely for a violation of this
5 subsection or a local ordinance in conformity with this subsection.

6 **SECTION 4.** 346.947 of the statutes is ~~amended~~ ^{created} to read:

7 **346.947 Smoking in vehicle surcharge.** (1) Whenever a court imposes a
8 forfeiture under s. 346.95 (12) for a violation of s. 346.94 (23), the court shall also
9 impose a vehicle smoking surcharge under ch. 814 in an amount equal to the amount
10 of the forfeiture imposed.

11 (2) If a forfeiture is suspended in whole or in part, the surcharge under sub.
12 (1) shall be reduced in proportion to the suspension.

13 (3) If any deposit is made for an offense to which this section applies, the person
14 making the deposit shall also deposit a sufficient amount to include the surcharge
15 under this section. If the deposit is forfeited, the amount of the surcharge shall be
16 transmitted to the secretary of administration under sub. (4). If the deposit is
17 returned, the amount of the surcharge shall also be returned.

18 (4) The clerk of the circuit court shall collect and transmit to the county
19 treasurer the vehicle smoking surcharge as required under s. 59.40 (2) (m). The
20 county treasurer shall then pay the secretary of administration as provided in s.
21 59.25 (3) (f) 2. The secretary of administration shall deposit all amounts received
22 under this subsection in the general fund to be appropriated under s. 20.435 (1) (gc).

23 **SECTION 5.** 346.95 (12) of the statutes is ~~created~~ ^{created} to read:

24 346.95 (12) Any person violating s. 346.94 (23) shall be required to forfeit \$25
25 for the first offense and \$50 for each subsequent offense.

LPS:
fix
component

SECTION 6. 814.75 (28) of the statutes is created to read:

814.75 (28) The vehicle smoking surcharge under s. 346.947.

SECTION 7. 814.79 (11) of the statutes is created to read:

814.79 (11) The vehicle smoking surcharge under s. 346.947.

SECTION 8. Effective date.

(1) This act takes effect on the first day of the 4th month beginning after publication.

(END)

D-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2644/P1dn
ARG&MED:.....

eev

date

ATTN: Steve Peters

Please review the attached draft carefully to ensure that it is consistent with your intent.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2644/P1dn
ARG:eev:jf

July 24, 2013

ATTN: Steve Peters

Please review the attached draft carefully to ensure that it is consistent with your intent.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

Gary, Aaron

From: Peters, Steve
Sent: Wednesday, August 28, 2013 12:32 PM
To: Gary, Aaron
Subject: FW: Draft review: LRB -2644/P1 Topic: Prohibit smoking in vehicles while children are present; surcharge funding smoking cessation program
Attachments: 13-2644/P1.pdf; DraftersNote1.pdf

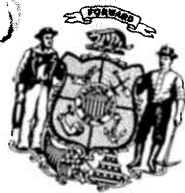
Can we have this made into an introducible version?

Thanks!

Steven Peters
Office of Representative Eric Genrich
304W State Capitol
608-266-0617

From: LRB.Legal
Sent: Wednesday, July 24, 2013 9:08 AM
To: Rep.Genrich
Subject: Draft review: LRB -2644/P1 Topic: Prohibit smoking in vehicles while children are present; surcharge funding smoking cessation program

Following is the PDF version of draft LRB -2644/P1 and drafter's note.



State of Wisconsin
2013 - 2014 LEGISLATURE

in
8/28

LRB-26444
ARG&MED:eev:
Kt

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

wanted
8/29

No changes

refn

1 AN ACT ^{refn} to amend 255.15 (3) (b) (intro.); and to create 20.435 (1) (gc), 346.94 (23),
2 346.947, 346.95 (12), 814.75 (28) and 814.79 (11) of the statutes; relating to:
3 smoking in motor vehicles while children are present, making an
4 appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits, with exceptions, a person from smoking in specified enclosed or outdoor locations, including in a "public conveyance," which is a mass transit vehicle, school bus, or other device by which persons are transported for hire except in interstate commerce. A person who violates this prohibition is subject to a forfeiture of not less than \$100 nor more than \$250 for each violation.

Also under current law, the Department of Health Services administers a tobacco use control program (program) to award grants for specified purposes, including to reduce tobacco use and promote tobacco use cessation and prevention.

This bill prohibits a person from smoking in a motor vehicle while a person under 16 years of age is present in the motor vehicle, regardless of whether the motor vehicle is on a highway. However, the bill does not apply to smoking in a public conveyance. A person who violates this prohibition must forfeit \$25 for the first offense and \$50 for each subsequent offense and must also pay a surcharge in the same amount. The surcharge proceeds provide additional funding for the program. A law enforcement officer may not stop or inspect a vehicle solely to determine compliance with this smoking prohibition but may issue a citation for a violation observed in the course of a stop or inspection made for other purposes.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.435 (1) (gc) of the statutes is created to read:

2 20.435 (1) (gc) *Tobacco use control, surcharge proceeds.* All moneys received
3 from vehicle smoking surcharges under s. 346.947 for grants and programs under s.
4 255.15 (3).

5 **SECTION 2.** 255.15 (3) (b) (intro.) of the statutes is amended to read:

6 255.15 (3) (b) (intro.) From the appropriation ~~account~~ accounts under s. 20.435
7 (1) (fm) and (gc), the department may award grants for any of the following:

8 **SECTION 3.** 346.94 (23) of the statutes is created to read:

9 346.94 (23) **SMOKING IN MOTOR VEHICLES WHILE CHILDREN ARE PRESENT.** (a) In this
10 subsection:

11 1. "Public conveyance" has the meaning given in s. 101.123 (1) (e).

12 2. "Smoke" means to burn or hold, or inhale or exhale smoke from, any item
13 described in s. 101.123 (1) (h) 1. to 4. containing tobacco.

14 (b) No person may smoke in a motor vehicle while a person under 16 years of
15 age is present in the motor vehicle, regardless of whether the motor vehicle is on a
16 highway.

17 (c) This subsection does not apply if the motor vehicle is a public conveyance.

18 (d) Notwithstanding s. 349.02, a law enforcement officer may not stop or
19 inspect a vehicle solely to determine compliance with this subsection or a local
20 ordinance in conformity with this subsection. This paragraph does not limit the
21 authority of a law enforcement officer to issue a citation for a violation of this

1 subsection or a local ordinance in conformity with this subsection observed in the
2 course of a stop or inspection made for other purposes, except that a law enforcement
3 officer may not take a person into physical custody solely for a violation of this
4 subsection or a local ordinance in conformity with this subsection.

5 **SECTION 4.** 346.947 of the statutes is created to read:

6 **346.947 Smoking in vehicle surcharge.** (1) Whenever a court imposes a
7 forfeiture under s. 346.95 (12) for a violation of s. 346.94 (23), the court shall also
8 impose a vehicle smoking surcharge under ch. 814 in an amount equal to the amount
9 of the forfeiture imposed.

10 (2) If a forfeiture is suspended in whole or in part, the surcharge under sub.
11 (1) shall be reduced in proportion to the suspension.

12 (3) If any deposit is made for an offense to which this section applies, the person
13 making the deposit shall also deposit a sufficient amount to include the surcharge
14 under this section. If the deposit is forfeited, the amount of the surcharge shall be
15 transmitted to the secretary of administration under sub. (4). If the deposit is
16 returned, the amount of the surcharge shall also be returned.

17 (4) The clerk of the circuit court shall collect and transmit to the county
18 treasurer the vehicle smoking surcharge as required under s. 59.40 (2) (m). The
19 county treasurer shall then pay the secretary of administration as provided in s.
20 59.25 (3) (f) 2. The secretary of administration shall deposit all amounts received
21 under this subsection in the general fund to be appropriated under s. 20.435 (1) (gc).

22 **SECTION 5.** 346.95 (12) of the statutes is created to read:

23 346.95 (12) Any person violating s. 346.94 (23) shall be required to forfeit \$25
24 for the first offense and \$50 for each subsequent offense.

25 **SECTION 6.** 814.75 (28) of the statutes is created to read:

1 814.75 (28) The vehicle smoking surcharge under s. 346.947.

2 **SECTION 7.** 814.79 (11) of the statutes is created to read:

3 814.79 (11) The vehicle smoking surcharge under s. 346.947.

4 SECTION 8. Effective date.

5 (1) This act takes effect on the first day of the 4th month beginning after
6 publication.

7 (END)

Rose, Stefanie

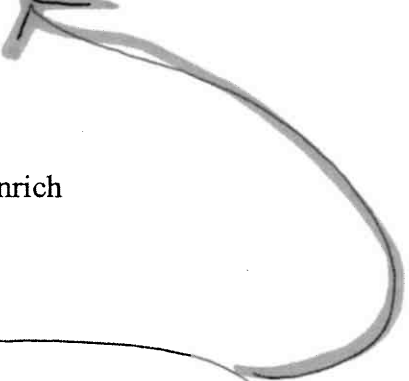
From: LRB.Legal
Sent: Wednesday, February 12, 2014 9:15 AM
To: Gary, Aaron
Subject: FW: Draft Review: LRB -2644/1 Topic: Prohibit smoking in vehicles while children are present; surcharge funding smoking cessation program

From: Peters, Steve
Sent: Wednesday, February 12, 2014 9:11 AM
To: LRB.Legal
Cc: Rep.Barnes
Subject: Draft Review: LRB -2644/1 Topic: Prohibit smoking in vehicles while children are present; surcharge funding smoking cessation program

Could this be delivered to Rep. Barnes? He's going to take over this bill.

Thanks.

Steven Peters
Office of Representative Eric Genrich
304W State Capitol
608-266-0617



Please Jacket LRB -2644/1 for the ASSEMBLY.